

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

JERRAD NEOL ELLSBERRY	§	
VS.	§	CIVIL ACTION NO. 1:11-CV-610
DIRECTOR, TDCJ-CID	§	

MEMORANDUM OPINION REGARDING TRANSFER

Petitioner, Jerrad Neol Ellsberry, an inmate currently confined at the Coffield Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, brings this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.<sup>1</sup>

The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

Discussion

Title 28 U.S.C. § 2254(a) allows a district court to “entertain an application for writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a). A state prisoner is required to file his federal petition for writ of habeas corpus in either the district where the prisoner is incarcerated or the district where the prisoner was convicted and sentenced. 28 U.S.C. § 2241(d). Although both district courts have jurisdiction to entertain the application, “[t]he district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.” *Id.*

Petitioner was convicted and sentenced in Smith County, Texas, which is located in the

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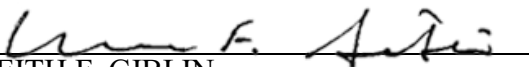
<sup>1</sup>Attorney, Jonathan David Landers, filed the present petition for writ of habeas corpus for petitioner, and has indicated he will file an application to proceed *pro hac vice*.

Tyler Division of the Eastern District of Texas. Petitioner filed this petition in the Beaumont Division of the Eastern District of Texas, but he is currently confined at the Coffield Unit, which is also located in the Tyler Division of the Eastern District of Texas.

Conclusion

The court has considered the circumstances underlying the particular facts of this case and has determined that the interests of justice would be served by transferring this petition to the division where petitioner is currently confined and where he was convicted. Therefore, the petition should be transferred to the Tyler Division of the Eastern District of Texas for hearing and determination. An order transferring the case will be entered by the undersigned.

**SIGNED** this 1 day of December, 2011.

  
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KEITH F. GIBLIN  
UNITED STATES MAGISTRATE JUDGE